

UNITED STATES DISTRICT COURT

for the

Eastern District of Oklahoma

Division

Case No.

22 CIV 148 JFH

(to be filled in by the Clerk's Office)

Donald Ray Logsdon Jr

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

FILED

MAY 16 2022

PATRICK J. MURPHY
Clerk, U.S. District Court

By _____ Deputy Clerk _____

Dr. Dovall

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Donald Ray Legsdon Jr

All other names by which
you have been known:

Donnie Legsdon Jr

ID Number

02255-509

Current Institution

FCI El Reno

Address

PO Box 1500

El Reno

OK

73036-1500

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Dr. Duvall

Job or Title (*if known*)

Surgeon

Shield Number

Employer

McAlester Regional Health Center

Address

1 Clark Bass Boulevard

OK

74501

City

State

Zip Code

 Individual capacity Official capacity

Defendant No. 2

Name

United States Marshal Service

Job or Title (*if known*)

Government Entity

Shield Number

Employer

United States Government

Address

Muskogee

OK

74110-1

City

State

Zip Code

 Individual capacity Official capacity

Defendant No. 3

Name

Pittsburg County Criminal Justice Center
Government Entity

Job or Title (if known)

Shield Number

Employer

Address

1210 N. West St.
McAlester OK 74501

City State Zip Code

 Individual capacity Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City State Zip Code

 Individual capacity Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

 Federal officials (a *Bivens* claim) State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

I have the right to adequate health care

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

I have the right to adequate health care

II D

Dr. D. Vail acted under color of state law and federal law because I was housed at a state facility by the United States Marshal Service. The state agency picked him out and delivered me to him for surgery. I was under care of the U.S.M.S. the.

United States Marshal Service acted under color of state and federal law because I was under their custody but they had me housed at a state facility.

Pittsburg County Criminal Justice Center acted under color of state and federal law because I was housed there, a state facility, under custody of the U.S.M.S., a federal entity.

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See Attached

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner
- Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

See Attached

C. What date and approximate time did the events giving rise to your claim(s) occur?

September, 2020 time?

D. What are the facts underlying your claim(s)? (For example: *What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

See Attached

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

See Attached

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Actual Damages, \$1,000,000. The basis is because it takes me three times as

long to eat now because of this.

Punitive Damages, \$17,000,000. The basis is because he is a surgeon and

should not be doing this.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act (“PLRA”), 42 U.S.C. § 1997e(a), requires that “[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes

No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Pittsburg County Criminal Justice Center

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

Yes

No

Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

Yes

No

Do not know

If yes, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

E. If you did file a grievance:

1. Where did you file the grievance?

2. What did you claim in your grievance?

3. What was the result, if any?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

There is no grievance process at Pittsburg County Criminal Justice Center

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

The nurse Davis Crawford at P.C.C.J.C.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

Yes

No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (*if federal court, name the district; if state court, name the county and State*)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition.

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

 Yes No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (*if federal court, name the district; if state court, name the county and State*)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

 Yes No

If no, give the approximate date of disposition

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 5-10-22

Signature of Plaintiff	<u>Donald Ray Logsdon DR</u>		
Printed Name of Plaintiff	<u>Donald Ray Logsdon Jr</u>		
Prison Identification #	<u>G2255-509</u>		
Prison Address	<u>P O Box 1500</u>	<u>City</u>	<u>OK</u>
	<u>Erlone</u>	<u>State</u>	<u>73036-1500</u>
		<u>Zip Code</u>	

B. For Attorneys

Date of signing: _____

Signature of Attorney	_____		
Printed Name of Attorney	_____		
Bar Number	_____		
Name of Law Firm	_____		
Address	_____		
	<u>City</u>	<u>State</u>	<u>Zip Code</u>
Telephone Number	_____		
E-mail Address	_____		

IV B,D IV

In September of 2020 I had to be taken to McAlester Regional Health Center, while in custody at Pittsburg County Criminal Justice Center, for emergency surgery. This also co-incides with my suit CIV-21-252-JFH-JAR on the nurse at the Justice Center forcing me to wait on medical attention. The emergency surgery was a Cholecystectomy that the surgeon, Dr. Duvall, said should have happened "days" before the time of the actual surgery. This co-incides with me telling staff at the Justice Center, for four days, that I couldn't hardly breath and that it felt like there was something squeezing inside my chest. Note that also I was unable to eat for four days before I was taken to the Health Center. The surgery itself went as planned apparently. I was sore for about two months after the surgery and it was hard for my food to go down after I swallowed it. I thought that was just normal for after that type of a surgery. The soreness eventually went away, but still to this day when I try to swallow food it gets jammed up in my throat and hurts me. If I try to take a drink to wash the food down, it hurts me real bad and will not go down except slowly. It feels to me like my throat has been shrunk since the surgery. Recently I obtained a copy of my medical records from here. I found what I believe ~~to~~ to be the cause of this problem. Apparently the surgeon left a number of some sort of "clips" inside me that were caught on an X-Ray. I do not remember ever authorizing that the surgeon could leave anything.

inside me, as I had hopes of having a "green burial" after I die, but I am sure that is out of the question now. Also, I believe it to be medical malpractice, the fact that the surgeon left anything inside of me. I believe the reason it is so hard for me to swallow food is because one or more of the "clips" the surgeon left inside me is clipped to my throat for some reason and making my throat smaller in diameter at one point therefore restricting the flow of food to my stomach.